

State of California
BOARD OF EQUALIZATION

UNDERGROUND STORAGE TANK MAINTENANCE FEE REGULATIONS

Regulation 1271. RECORDS.

Reference: Revenue and Taxation Code Section 50153.

(a) DEFINITIONS.

(1) "Database Management System" means a software system that controls, relates, retrieves, and provides accessibility to data stored in a database.

(2) "Electronic data interchange" or "EDI technology" means the computer to computer exchange of business transactions in a standardized structured electronic format.

(3) "Hardcopy" means any document, record, report or other data maintained in a paper format.

(4) "Machine-sensible record" means a collection of related information in an electronic format. Machine-sensible records do not include hardcopy records that are created or recorded on paper or stored in or by a storage-only imaging system such as microfilm or microfiche.

(5) "Fee payer" means any person liable for the payment of a fee imposed by Section 25299.41 of the Health and Safety Code.

(b) GENERAL.

(1) A fee payer shall maintain and make available for examination on request by the board or its authorized representative, all records necessary to determine the correct underground storage tank maintenance fee liability and all records necessary for the proper completion of underground storage tank maintenance fee returns. Such records include but are not limited to:

(A) Normal books of account ordinarily maintained by the average prudent businessperson engaged in the activity in question.

(B) Bills, receipts, invoices, cash register tapes, or other documents of original entry supporting the entries in the books of account.

(C) Schedules or working papers used in connection with the preparation of fee returns.

(2) Machine-sensible records are considered records under Revenue and Taxation Code Sections 50153.

(c) MACHINE-SENSIBLE RECORDS

(1) GENERAL.

(A) Machine-sensible records used to establish fee compliance shall contain sufficient source document (transaction-level) information so that the details underlying the machine-sensible records can be identified and made available to the board upon request. A fee payer has discretion to discard duplicated records and redundant information provided the integrity of the audit trail is preserved and the responsibilities under this regulation are met.

(B) At the time of an examination, the retained records must be capable of being retrieved and converted to a standard magnetic record format, e.g., Extended Binary Coded Decimal Interchange Code (EBCDIC) or American Standard Code for Information Interchange (ASCII) flat file.

(C) Fee payers are not required to construct machine-sensible records other than those created in the ordinary course of business. A fee payer who does not create the electronic equivalent of a traditional paper document in the ordinary course of business is not required to construct such a record for fee purposes.

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(2) ELECTRONIC DATA INTERCHANGE REQUIREMENTS.

(A) Where a fee payer uses electronic data interchange (EDI) processes and technology, the level of record detail, in combination with other records related to the transactions, must be equivalent to that contained in an acceptable paper record. For example, the retained records should contain such information as vendor name, invoice date, product description, quantity purchased, price, amount of fee, indication of fee status (e.g., for resale), and shipping detail. Codes may be used to identify some or all of the data elements, provided the fee payer maintains a method which allows the board to interpret the coded information.

(B) The fee payer may capture the information necessary to satisfy subdivision (c)(2)(A) at any level within the accounting system and need not retain the original EDI transaction records provided the audit trail, authenticity, and integrity of the retained records can be established. For example, a fee payer using EDI technology receives electronic invoices from its suppliers. The fee payer decides to retain the invoice data from completed and verified EDI transactions in its accounts payable system rather than to retain the EDI transactions themselves. Since neither the EDI transaction nor the accounts payable system capture information from the invoice pertaining to product description and vendor name (i.e., they contain only codes for that information), the fee payer must also retain other records, such as its vendor master file and product code description lists, and make them available to the board. In this example, the fee payer need not retain its EDI transaction for fee purposes.

(3) ELECTRONIC DATA PROCESSING SYSTEMS REQUIREMENTS. The requirements for an electronic data processing (EDP) accounting system should be similar to that of a manual accounting system, in that an adequately designed accounting system should incorporate methods and records that will satisfy the requirements of this regulation.

(4) BUSINESS PROCESS INFORMATION.

(A) Upon request of the board, the fee payer shall provide a description of the business process that created the retained records. Such description shall include the relationship between the records and the fee documents prepared by the fee payer and the measures employed to ensure the integrity of the records.

(B) The fee payer shall be capable of demonstrating:

1. the functions being performed as they relate to the flow of data through the system;
2. the internal controls used to ensure accurate and reliable processing and;
3. the internal controls used to prevent unauthorized addition, alteration, or deletion of retained records.

(C) The following specific documentation is required for machine-sensible records retained pursuant to this regulation:

1. record formats or layouts;
2. field definitions (including the meaning of all codes used to represent information);
3. file descriptions (e.g., data set name); and
4. detailed charts of accounts and account descriptions.

(d) MACHINE-SENSIBLE RECORDS MAINTENANCE REQUIREMENTS.

(1) The fee payer's computer hardware or software shall accommodate the extraction and conversion of retained machine-sensible records to a standard magnetic record format as provided in subdivision (c)(1)(B).

(2) The Board recommends but does not require that fee payers refer to the National Archives and Record Administration's (NARA) standards for guidance on the maintenance and storage of electronic records, such as the labeling of records, the location and security of the storage environment, the creation of back-up copies, and the use of periodic testing to confirm the continued integrity of the records.

(e) ACCESS TO MACHINE-SENSIBLE RECORDS.

(1) The manner in which the board is provided access to machine-sensible records may be satisfied through a variety of means that shall take into account a fee payer's facts and circumstances through consultation with the fee payer.

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(2) Such access will be provided in one or more of the following manners:

(A) The fee payer may arrange to provide the board with the hardware, software, and personnel resources to access the machine-sensible records.

(B) The fee payer may arrange for a third party to provide the hardware, software, and personnel resources necessary to access the machine-sensible records.

(C) The fee payer may convert the machine-sensible records to a standard record format specified by the board, including copies of files, on a magnetic medium that is agreed to by the board.

(D) The fee payer and the board may agree on other means of providing access to the machine-sensible records.

(f) FEE PAYER RESPONSIBILITY AND DISCRETIONARY AUTHORITY.

(1) In conjunction with meeting the requirements of subdivision (c), a fee payer may create files solely for the use of the board. For example, if a data base management system is used, it is consistent with this regulation for the fee payer to create and retain a file that contains the transaction-level detail from the data base management system and that meets the requirements of subdivision (c). The fee payer should document the process that created the separate file to show the relationship between that file and the original records.

(2) A fee payer may contract with a third party to provide custodial or management services of the records. Such a contract shall not relieve the fee payer of its responsibilities under this regulation.

(g) HARDCOPY RECORDS.

(1) Except as specifically provided, fee payers are not relieved of the responsibility to retain hardcopy records that are created or received in the ordinary course of business as required by existing law and regulations. Hardcopy records may be retained on a record keeping medium as provided in subdivision (h).

(2) If hardcopy transaction level documents are not produced or received in the ordinary course of transacting business (e.g., when the fee payer uses electronic data interchange technology), such hardcopy records need not be created.

(3) Hardcopy records generated at the time of a transaction using a credit or debit card must be retained unless all the details necessary to determine correct fee liability relating to the transaction are subsequently received and retained by the fee payer in accordance with the regulation. Such details include those listed in subdivision (c)(2)(A).

(4) Computer printouts that are created for validation, control, or other temporary purposes need not be retained.

(h) ALTERNATIVE STORAGE MEDIA.

(1) For purposes of storage and retention, fee payer may convert hardcopy documents received or produced in the normal course of business and required to be retained under this regulation to storage-only imaging media such as microfilm or microfiche and may discard the original hardcopy documents, provide the conditions of this subdivision are met. Documents which may be stored on these media include, but are not limited to general books of account, journals, voucher registers, general and subsidiary ledgers, and supporting records of detail, such as sales invoices, purchase invoices, exemption certificates, and credit memoranda.

(2) Storage-only imaging media such as microfilm and microfiche systems shall meet the following requirements.

(A) Documentation establishing the procedures for converting the hardcopy documents to the storage-only imaging system must be maintained and made available on request. Such documentation shall, at a minimum, contain a sufficient description to allow an original document to be followed through the conversion system as well as internal procedures established for inspection and quality assurance.

(B) Procedures must be established for the effective identification, processing, storage, and preservation of the stored documents and for making them available for the period they are required to be retained under subdivision (i).

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(C) Upon request by the board, a fee payer must provide facilities and equipment for reading, locating, and reproducing any documents maintained on storage-only imaging media.

(D) When displayed on such equipment or reproduced on paper, the documents must exhibit a high degree of legibility and readability. For this purpose, legibility is defined as the quality of a letter or numeral that enables the observer to identify it positively and quickly to the exclusion of all other letters or numerals. Readability is defined as the quality of a group of letters or numerals being recognizable as words or complete numbers.

(E) All data on storage-only imaging media must be maintained and arranged in a manner that permits the location of any particular record.

(F) There is no substantial evidence that the storage-only imaging medium lacks authenticity or integrity.

(i) RECORD RETENTION - TIME PERIOD. All records required to be retained under this regulation must be preserved for a period of not less than four years unless the State Board of Equalization authorizes in writing their destruction within a lesser period.

(j) RECORD RETENTION LIMITATION AGREEMENTS.

(1) The board has the authority to enter into or revoke a record retention limitation agreement with the fee payer to modify or waive any of the specific requirements in this regulation. A fee payer's request for an agreement must specify which records (if any) the fee payer proposes not to retain and provide the reasons for not retaining such records, as well as proposing any other terms of the requested agreement. The fee payer shall remain subject to all requirements of this regulation that are not modified, waived, or superseded by a duly approved record retention limitation agreement.

(A) If a fee payer seeks to limit its retention of machine-sensible records, the fee payer may request a record retention limitation agreement, which shall;

1. document understandings reached with the board, which may include, but are not limited to, any one or more of the following issues:

- a. the conversion of files created on an obsolete computer system;
- b. restoration of lost or damaged files and the actions to be taken;
- c. use of fee payer computer resources, and

2. specifically identify which of the fee payer's records the Board determines are not necessary for retention and which the fee payer may discard, and

3. authorize variances, if any, from the normal provisions of this regulation.

(B) The board shall consider a fee payer's request for a record retention limitation agreement and notify the fee payer of the actions to be taken.

(C) The board's decision to enter or not to enter into a record retention limitation agreement shall not relieve the fee payer of the responsibility to keep adequate and complete records supporting entries shown on any fee or information return.

(2) A fee payer's record retention practices shall be subject to evaluation by the board when a record retention limitation agreement exists. The evaluation may include a review of the fee payer's relevant data processing and accounting systems with respect to EDP systems, including systems using EDI technology.

(A) The board shall notify the fee payer of the results of any evaluation, including acceptance or disapproval of any proposals made by the fee payer (e.g., to discard certain records) or any changes considered necessary to bring the fee payer's practices into compliance with this regulation.

(B) Since the evaluation of a fee payer's record retention practices is not directly related to the determination of fee reporting accuracy for a particular period or return, an evaluation made under this regulation is not an "examination of records" pursuant to Revenue and Taxation Code Section 50153.

(C) Unless otherwise specified, an agreement shall not apply to accounting and fee systems added subsequent to the completion of the record evaluation. All machine-sensible records produced by a subsequently added accounting or fee system shall be retained by the fee payer in accordance with this regulation until a new evaluation is conducted by the board.

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(D) Unless otherwise specified, an agreement made under this subdivision shall not apply to any person, company, corporation, or organization that, subsequent to the fee payer's signing of a record retention limitation agreement, acquires or is acquired by the fee payer. All machine-sensible records produced by the acquired or the acquiring person, company, corporation, or organization, shall be retained pursuant to this regulation.

(3) In addition to the record retention evaluation under subdivision (j)(2), the board may conduct tests to establish the authenticity, readability, completeness, and integrity of the machine-sensible records retained under a record retention limitation agreement. The board shall notify the fee payer of the results of such tests. These tests may include the testing of EDI and other procedures and a review of the internal controls and security procedures associated with the creation and storage of the records.

(k) FAILURE TO MAINTAIN RECORDS. Failure to maintain and keep complete and accurate records will be considered evidence of negligence or intent to evade the fee and may result in penalties or other appropriate administrative action.

History: Adopted October 6, 1999, effective January 8, 2000.